



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

JUN 04 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ATTENTION:

Power Performance Enterprises, Inc.
c/o Kory Willis, President
166 Nixon Road
Kinder, LA 70648

Kyle Beall, Esq.
628 North Boulevard
Baton Rouge, LA 70802

Kory Willis
2835 St. Francis Forest Drive
Lake Charles, LA 70605

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA") hereby requires Kory Willis, Power Performance Enterprises, Inc. ("PPEI"), and any of their parent organizations, affiliates, predecessors, successors, and assignees (collectively "You"),¹ to provide the information requested below ("Information Request").

EPA issues this Information Request under Section 208(a) of the Clean Air Act ("CAA"), 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Chief of the Vehicle and Engine Enforcement Branch in the Air Enforcement Division, Office of Enforcement and Compliance Assurance.

Appendix A provides definitions, some of which may differ from those in previous requests. Appendix B provides instructions for Your responses to this Information Request.

¹ See definition 5 in Appendix A.

Appendix C specifies the information that You must provide. Appendix D provides information about asserting a claim of confidentiality over information You provide in response to this Information Request. Appendix E contains the form with which You are required to certify the truth and completeness of Your response. Appendix F is an Excel workbook provided by EPA to organize Your responses to Requests 1 through 10.

This Information Request follows on prior requests sent to PPEI. Specifically, EPA previously sent PPEI similar requests pursuant to the CAA on October 28, 2015, and March 21, 2016. Although EPA's prior requests sought information relevant to the timeframe dating from January 1, 2013, to December 31, 2015, PPEI's response only provided information dating from August 15, 2013 through December 31, 2015. In this Information Request, EPA seeks information relevant to the timeframe from January 1, 2016 through the date of this Information Request, as well as additional information to clarify information PPEI previously provided.

You must provide this information to the EPA representative listed below within thirty (30) calendar days from the date of this Information Request. Please carefully review the instructions, definitions, and specific Requests as You prepare Your response. If You anticipate being unable to fully respond to this Information Request by this date, You must make a written request for an extension of time describing an appropriate justification for the extension to Elfego Felix of my staff at felix.elfego@epa.gov, within fifteen (15) days of the date of this Information Request. If timely made, EPA will review Your request and may extend the time in which Your response must be provided.

Failure to provide the requested information may result in a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to Sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections, or depositions. It is important that Your responses be clear, accurate, organized, and complete. EPA will regard any information that is misleading, false, incomplete, or provided without regard to its accuracy as a violation of the CAA and/or criminal statutes.

You must provide all requested information with the following certification, signed by Kory Willis:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You may be entitled to assert a business confidentiality claim covering all or part of the information provided in response to this Information Request as specified in the Confidentiality

of Business Information (“CBI”) regulations, 40 C.F.R. Part 2, Subpart B. You must specify the page, paragraph, and sentence when identifying the information subject to Your CBI claim. Appendix D of this Information Request provides process and substantiation requirements for asserting business confidentiality claims. EPA may, without further notice, provide the public with any information not subject to a CBI claim.

EPA may use any information provided in response to this Information Request in an administrative, civil, or criminal action.

Please provide all requested information, via courier service or overnight delivery, to:

Elfego Felix
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
William Jefferson Clinton South Room 1111, Mail Code 2242A
Washington, DC 20460

Questions concerning this Information Request should be directed to Edward Kulschinsky at (202) 564-4133, kulschinsky.edward@epa.gov, or to Elfego Felix, (415) 947-4141, felix.elfego@epa.gov.



Evan Belser
Chief
Vehicle and Engine Enforcement Branch
Air Enforcement Division
Office of Civil Enforcement

Appendix A

Definitions

All terms used in this Information Request will have their ordinary meaning unless such terms are defined below or in the CAA, 42 U.S.C. §§ 7401–7671q, or the Motor Vehicle and Non-Road Regulations found at 40 C.F.R. Parts 85, 86, 89, 90, 1036, 1037, 1039, 1048, 1051, and 1068, in which case they shall have their meanings as defined therein.

1. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
2. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
3. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. A reference to any entity by name includes the entity and any of the entity’s affiliated organizations,² predecessors, successors, and assignees.

² *See* definition 6, below.

5. The term “You” means, collectively, Kory Willis, Power Performance Enterprises, Inc. (“PPEI”), and any of their parent organizations, affiliates, predecessors, successors, and assignees.
6. The term “affiliated organization” means any organization or entity associated with another entity as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization, or entity acting in lieu of another entity.
7. The term “applications” means all vehicle or engine configurations.
8. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
9. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
10. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
11. The term “engine tuner” or “tuner” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM.
12. The term “engine tune” or “tune” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
13. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, engine tuner, device, part, or component.
14. The term “selective catalytic reduction” or “SCR” means systems which inject a reductant, such as diesel exhaust fluid (“DEF”), into the exhaust stream where it reacts

with a catalyst to convert Nitrogen Oxides (“NO_x”) emissions to Nitrogen Gas (“N₂”) and Water.

15. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems, and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
16. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of NO_x. The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
17. The term “diesel particulate filter” or “DPF” means an exhaust aftertreatment device that physically traps particulate matter (“PM”) and removes it from the exhaust stream of diesel fueled vehicles and equipment.
18. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, engine tuner, device, part, or component.
19. The term “engine derate” or “limp-home mode” means an ECM mode that reduces the engine power after the OBD system identifies a problem with an emission-related system.
20. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as Diesel Oxidation Catalysts (“DOCs”).

Appendix B
Instructions for Responses

1. Provide a complete, detailed response, in English, to each Request in Appendix C below.
2. Appendix F consists of an Excel workbook in which You are requested to organize Your responses to Requests 1 through 10. Please populate the workbook with Your responses to Requests 1 through 10 in accordance with all instructions. Requests 1 through 10 are summarized in Appendix F for Your convenience only. The Request summaries in Appendix F are not substitutes for the full text of the Requests in Appendix C.
3. Provide Your responses to Requests 11 through 22 in electronic form (e.g., a Word document).
4. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a folder specific to that question or subpart and labeled accordingly. Provide copies of documents, not original documents.
5. For each response, please provide the number of the Request to which it responds and identify each person who provided information that was used to prepare that answer. For each document produced, please provide the number of the Request to which it responds.
6. When a response is provided in the form of a number, specify the units of measure.
7. Where documents or information necessary for a response is not in Your possession, custody, or control, indicate in Your response why such documents or information are not available or in Your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
8. Where You have previously submitted information to the EPA that is responsive to any of the Requests set forth in Appendix C, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (e.g., electronically, fax, mail), and the individual at the EPA to whom it was provided. The requirements of this instruction do not apply to information submitted in response to the EPA's prior information requests dated October 28, 2015, and March 21, 2016.
9. Please provide Your response to this Information Request in electronic form on a disk (CD or DVD media). All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped). Where spreadsheets are responsive to a Request, produce them in unlocked electronic spreadsheet format, such as .xlsx or .csv (locked files are unacceptable). Please contact Elfego Felix if You have any questions about this instruction.
10. You must promptly supplement Your response to any Request in Appendix C in the event

You learn that You possess responsive information not yet produced or if You gain possession, custody, or control of responsive information after responding to this Information Request.

Appendix C

Information Request

Provide the following information to EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542.

Provide the following information in Appendix F, worksheets 1 and 2.

1. For each product identified in PPEI's response to the Information Request dated October 28, 2015, and further identified in Appendix F, worksheets 1 and 2, provide the:
 - a. quantity PPEI purchased from January 1, 2016, through the date of this Information Request;
 - b. quantity PPEI sold during the period January 1, 2016, through the date of this Information Request;
 - c. average PPEI sale price; and
 - d. quantity PPEI or Kory Willis installed during the period August 15, 2013, through the date of this Information Request.

Provide the following information in Appendix F, worksheet 1.

2. For each product identified in PPEI's response to the Information Request dated October 28, 2015, and further identified in Appendix F, worksheet 1, manufactured by PPEI, identify:
 - a. for tune products, all compatible tuners;
 - b. the name of each person who contributed to the manufacture, creation, design, development, fabrication, production, or programming of the product; and
 - c. the name of each person, entity, or brand under which the product has been marketed, packaged, sold, or distributed (e.g., PPEI, Kory Willis, GDP Tuning, HPP).

Provide the following information in Appendix F, worksheet 3.

3. In Appendix F, worksheet 3, identify each product not already identified in Appendix F, worksheets 1 and 2, that PPEI manufactured, sold, or offered for sale during the period January 1, 2016, through the date of this Information Request, that:
 - a. permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. DPF;
 - ii. EGR;
 - iii. catalyst;
 - iv. OBD;
 - v. SCR; or
 - vi. any sensors, signals, or records related to these systems;
 - b. can be programmed to modify engine or OBD parameters, including, but not limited to, an ECM;
 - c. can reprogram or overwrite an ECM; or

- d. together with the addition, modification, or removal of a motor vehicle's parts, has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part.

Examples of such products include, but are not limited to, tuners, PPEI Custom Tunes, Support Profiles, or Support Packs.

- 4. For each product identified in response to Request 3, provide the:
 - a. Part Number, Item Code, or other unique identifier used by PPEI;
 - b. product manufacturer;
 - c. quantity PPEI purchased from January 1, 2016, through the date of this Information Request;
 - d. price PPEI paid for each product;
 - e. name of each person or entity who PPEI purchased each product from;
 - f. quantity PPEI sold during the period January 1, 2016, through the date of this Information Request;
 - g. average PPEI sale price; and
 - h. quantity PPEI or Kory Willis installed during the period January 1, 2016, through the date of this Information Request.
- 5. For each product identified in response to Request 3, provide the product's vehicle applications by make, model, engine type, and year.
- 6. For each product identified in response to Request 3, identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
- 7. For each product identified in response to Request 3, indicate whether:
 - a. it is a tuner sold without tunes;
 - b. it is a tuner sold with tunes from the tuner manufacturer;
 - c. it is a tuner sold with tunes manufactured by PPEI;
 - d. it is a tune manufactured by PPEI and sold without a tuner; or
 - e. if the answer to all of the previous four questions is no, describe the product in detail.
- 8. For each product identified in response to Request 3 manufactured by PPEI, identify:
 - a. for tune products, all compatible tuners;
 - b. the name of each person who contributed to the manufacture, creation, design, development, fabrication, production, or programming of the product; and
 - c. the name of each person, entity, or brand under which the product has been marketed, packaged, sold, or distributed (e.g., PPEI, Kory Willis, GDP Tuning, HPP).
- 9. For each product identified in response to Request 3, indicate whether:
 - a. the product is capable of disabling the EGR without illuminating a MIL or

- prompting any on-board DTC;
- b. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of allowing removal of a Diesel Oxidation Catalyst without illuminating a MIL or prompting any DTC;
 - n. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a Diesel Oxidation Catalyst without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a Diesel Oxidation Catalyst without any engine derating;
 - p. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a Diesel Oxidation Catalyst without any engine derating;
 - q. the product is capable of allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - r. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a SCR system without any engine derating;
 - t. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any

- engine derating;
- u. the product is capable of altering fuel timing maps within engine electronic calibrations;
- v. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
- w. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
- x. PPEI has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.

Provide the following information in Appendix F, worksheet 4.

10. For each product identified in response to Requests 1 and 3 which PPEI sold during the period January 1, 2016 through the date of this Information Request, provide all sales information using the format provided in Appendix F, worksheet 4. PPEI may provide the requested information in a spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Appendix F, worksheet 4.

Provide the following information.

11. For each product identified in response to Request 3, provide the following information:
 - a. a description of the product.
 - b. a description of all stock components the product replaces.
 - c. a description of how the product differs from the stock components it replaces or how the product changes the stock configuration. If the product is a tune, provide a description of how the product differs from the stock ECM calibration or specifically changes the stock ECM calibration. You may submit engine calibration maps (e.g., Mass Fuel Maps, Injection Duration Maps, etc.). Any engine calibration map You submit must include a description of the calibration map and a description of how the product modifies the calibration map.
12. For each product identified in response to Request 3, and for products identified in PPEI's response to the Information Request dated October 28, 2015, to the extent not already provided:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by PPEI or Kory Willis, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).

13. For products identified in response to Request 3, state whether PPEI or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. a sample test report and any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
14. For products that are identified in response to Request 3, state whether PPEI or any other entity submitted an application for an Executive Order to the California Air Resources Board and, if so, provide a copy of the application for each product. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the product received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required changes to the product or application to receive approval.
15. Provide a detailed, written description of any changes in PPEI's business structure that have occurred between December 2, 2015, through the date of this Information Request, including but not limited to any change in ownership, corporate form, or affiliated organizations, and any and all supporting documentation (including but not limited to contracts and licenses).
16. Provide a detailed, written description of the business relationship between PPEI and each manufacturer with which PPEI or Kory Willis products can be used, including any changes to the business relationship since its inception, and any and all supporting documentation (including but not limited to contracts and licenses).
17. Provide a detailed, written description of Kory Willis's role in the manufacture, creation, design, development, fabrication, production, or programming of each product identified in response to Request 3 and in PPEI's response to the Information Request dated October 28, 2015.
18. Provide a detailed, written description of the business relationship between Kory Willis and each manufacturer with which PPEI or Kory Willis products can be used, including any changes to the business relationship since its inception, and any and all supporting documentation (including but not limited to contracts and licenses).
19. Provide a list of all current and former employees (including independent contractors) of

PPEI, without date restriction, indicating each employee's dates of employment, job title(s), and job responsibilities.

20. Provide the location of any and all warehouses or storage facilities, other than PPEI's office at 6096 Candice Lane, Lake Charles, Louisiana, where PPEI stores products.
21. Provide a list of all unique tunes manufactured by or for PPEI, and identify:
 - a. the tuner with which each tune is compatible;
 - b. each tune's vehicle applications by make, model, and year;
 - c. whether each tune disables EGR, SCR, or any sensors, signals, or records related to EGR or SCR;
 - d. Whether each tune allows removal of EGR, SCR, DPF, DOC, or any other exhaust aftertreatment device, or of any sensors, signals, or records related to these devices; and
 - e. whether each tune disables, bypasses, or alters the function of the OBD.
22. Identify each person responsible for responding to this Information Request Appendix C, including his or her title, and the Request(s) to which he or she responded.

Appendix D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this Information Request for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. EPA will construe a failure to furnish a business confidentiality claim with a response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice.

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this and other information requests to an EPA contractor, the Eastern Research Group, under contract number EP-W-15-006. An entity may submit any comments to the EPA with its assertion of a business confidentiality claim.

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time it provides its response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be provided separately to facilitate identification and handling by the EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that an entity must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without its consent, and (4) the disclosure of the information is likely to cause substantial harm to its business’s competitive edge. *See* 40 C.F.R. §§ 2.208 (a)-(e). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If an entity asserts a claim of business confidentiality in connection with information and documents forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), it must answer the following questions with respect to any information or document for which it asserts a claim of business confidentiality:

1. What specific portions of the information are allegedly to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to the claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of that harm, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

An entity must furnish responses to the above questions concurrent with its response to this Information Request if it has claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), an entity may request an extension of this deadline.

The EPA will construe a failure to furnish timely responses to the above questions as a waiver of any confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please provide responses to:

Elfego Felix
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
William Jefferson Clinton South Room 1111, Mail Code 2242A
Washington, DC 20460

Pursuant to 40 C.F.R. § 2.205(c), be hereby advised that information provided as part of any comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), an entity may assert a business confidentiality claim covering all or part of its response to these Requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with the comments as a waiver of that claim, and the information may be made available to the public without further notice.

Appendix E
Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by Power Performance Enterprises, Inc., and its parent organizations, affiliates, predecessors, successors, and assignees, to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

CERTIFICATE OF MAILING

I, Edward Kulschinsky, certify that on this day I sent this Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a), by Certified Mail, return receipt requested, to:

Power Performance Enterprises, Inc.
c/o Kory Willis, President
166 Nixon Road
Kinder, LA 70648

Kory Willis
2835 St. Francis Forest Drive
Lake Charles, LA 70605

Kyle Beall, Esq.
628 North Boulevard
Baton Rouge, LA 70802

Date: 6/5/2018



Edward Kulschinsky, Attorney-Adviser
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
William J. Clinton Federal Building
Room 1142C, Mail Code 2242A
Washington, DC 20460
(202) 564-4133
kulschinsky.edward@epa.gov